



New Jersey Department of Children and Families Policy Manual

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Legal Definition of Death 7-26-2004

According to the Uniform Determination of Death Act as adopted by New Jersey, “an individual who has sustained either (1) irreversible cessation of circulatory and respiratory functions, or (2) irreversible cessation of all functions of the entire brain, including the brain stem, is dead. A determination of death must be made in accordance with accepted medical standards.”

Legal Authority of Classes to Gift Organs and Tissues, Non-CP&P GSP 7-26-2004

N.J.S.A. 26:6-58.1 establishes consent for organ and tissue donation and lists, in order, six classes of parties who may consent:

1. Spouse/Civil Union Partner
2. Adult son or daughter
3. Either parent
4. Adult brother or sister
5. Guardian of the person at the time of decedent's death
6. Any other person authorized or under obligation to dispose of the body, including but not limited to hospital administration

Any member of these classes in priority order only, may consent to donation of all or part of the child's body unless the child, at the time of death, has made his or her irrevocable wishes known regarding refusal to make that donation.

The hospital where the child has died, in conjunction with the Medical Examiner and the New Jersey Organ and Tissue Sharing Network, determines if the child's remains are suitable for donation and meet all legal criteria for donation. This decision ensures the harvesting of any organ or tissues will not interfere with an autopsy or investigation.

Request to Parent/Adult Siblings from New Jersey Organ and Tissue Sharing Network for Organ Donation, Non-GSP Cases 7-26-2004

The Network Coordinator contacts any parent or adult sibling who has agreed to be contacted and formally requests consent for an anatomical gift of any or all of the deceased child's organs and tissues. The decision by any parent or adult sibling is irrevocable. The parent or adult sibling signs the organ donation option certificate.

The Network Coordinator will not contact CP&P to obtain consent for organ and tissue donation on non-GSP cases. The Network will contact the legal guardian directly in order to obtain consent. See CP&P-V-A-6-300.

Legal Authority of CP&P to Gift Organs and Tissues, CP&P Guardianship (GSP) Cases 7-26-2004

CP&P is responsible, within the scope of its authority, for determining if the organs and tissues of a child under Guardianship (GSP) at the time of death, which occurs in a hospital, can be donated pursuant to N.J.S.A. 26:6-58. CP&P has the authority to provide organs and/or tissues after death. The Division is able to give consent prior to death to donate organs and tissues upon death. The Division consents, in most cases, to all of the usable organs and tissues for donation.

For the purposes of N.J.S.A. 26:6-58, once GSP is established, birth parent and sibling relationships are terminated. Therefore, CP&P will not seek permission or opinions of the birth family members in order to donate organs and tissues of children in our guardianship. N.J.S.A. 30:4C-32 says "The care, custody or guardianship of the [Division] shall be full and complete for all purposes and shall vest in the Division the custody and control of both the person and property of children in its custody and care...."

Notification of Authorized Parties, CP&P GSP Cases 7-26-2004

If the organs and tissues are suitable for donation, the hospital where the child dies contacts the LO Manager. The hospital notifies the Manager that a request is initiated for consent for organ and tissue donation and that eligible classes are asked to consent by the New Jersey Organ and Tissue Sharing Network.

The LO Manager notifies the Assistant Director, who notifies the Deputy Director, Office of Program Operations/Adoption Operations, who notifies the CP&P Director, or designee, that a request for organ and tissue donation is initiated regarding a child who was under GSP at the time of death.

The CP&P Director, or designee, approves the request, in prompt consultation with appropriate Executive Staff, for organ and tissue donation unless some special circumstance occurs. If the request for organ and tissue donation is

approved, the CP&P Director responds to the Local Office Manager, through the chain of command, and has the Worker sign the donation option certificate form.

In most circumstances, the Division agrees to organ and tissue donation unless the Division is aware that the wishes of the child are contrary to organ and tissue donation. The Division will not ask the child or any other person about organ and tissue donation. If there is an unforeseen circumstance that needs legal clarification, the Deputy Attorney General (DAG) is consulted. The DAG is not consulted on routine matters.

Organ Donation Option Certificate 7-26-2004

The Network Coordinator contacts the LO Manager to coordinate the signing of the organ donation option certificate. The LO Manager assigns the Worker to sign the certificate at the hospital where the child died. The certificate is attached to the death certificate in order for the death certificate to be considered complete, pursuant to N.J.S.A. 26:6-58.

Immunity Under the Uniform Anatomical Gift Act 7-26-2004

N.J.S.A. 26: 6-58.1 stipulates that a “person who acts in good faith in accordance with the provisions of this act is not liable for any damages in any civil action or subject to prosecution in any criminal proceeding for any act or omission of the person.”